

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

KANEISHA BIRD; O.M. (a minor),

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
acting by and through the Bureau of
Indian Affairs,

Defendant.

UNITED STATES OF AMERICA,

Counter-Claimant,

vs.

KANEISHA BIRD,

Counter-Defendant.

CV 23-148-BLG-SPW-TJC

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendation on May 16, 2025. (Doc. 42). The Magistrate recommended that the Court grant the United States' Motion to Dismiss Count Four because Plaintiffs failed "to identify a source of substantive law that establishes specific fiduciary duties, or allege facts that the government has failed to perform those duties." (*Id.* at 14).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

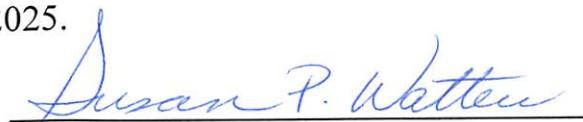
IT IS ORDERED that the proposed Findings and Recommendation (Doc. 42) entered by the United States Magistrate Judge are ADOPTED IN FULL.

IT IS FURTHER ORDERED that:

1. The United States' Motion to Dismiss Count Four (Doc. 28) is GRANTED;
2. Count Four of the Second Amended Complaint is DISMISSED; and
3. The above-captioned case shall remain referred to United States Magistrate Judge Cavan who will conduct all necessary hearings and submit to the undersigned proposed findings of fact and recommendations for the disposition of all motions excepted from the Magistrate Judge's jurisdiction by 28 U.S.C. § 636(b)(1)(A).

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DATED this 2nd day of June, 2025.



SUSAN P. WATTERS
United States District Judge